

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**NOTICE OF MOTION OF  
DEFENDANT THE NORTHERN  
TRUST COMPANY TO DISMISS  
THE COMPLAINT FOR FAILURE  
TO STATE A CLAIM**

PLEASE TAKE NOTICE that upon the Declaration of Michael J. Dell, sworn to September 17, 2007 and the exhibits to that Declaration, and the accompanying memorandum of law, defendant The Northern Trust Company (“Northern Trust”) will move this Court before the Honorable Loretta A. Preska, in Courtroom 12D, at the United States Court House, 500 Pearl Street, New York, New York, 10007, on a date convenient to the Court, for an order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing the Complaint with prejudice as to Northern Trust, and for such other relief as the Court deems just and proper. The briefing schedule on this motion has been set by the parties’ stipulation that was “so ordered” by the Court on August 16, 2007.

Dated: New York, New York  
September 17, 2007

KRAMER LEVIN NAFTALIS & FRANKEL LLP

/s/ Michael J. Dell

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